

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
ARBITRATION PETITION NO. 67 of 2007

Sushma Sankalp @ Susama Manjari Pati.. Petitioner
versus

S.V.S. Securities Pvt.Ltd. & ors. .. Respondents

...

Ms.Sushma Sankalp, petitioner in person.

Mr.Jayant Gaikwad i/b Ajay Kandhar & Co. for
respondent nos.1 to 3.

CORAM : D.G. KARNIK, J.

DATED : 7th March 2007

P.C.:

1. Heard the petitioner appearing in person and the learned counsel for the respondents. The respondent no.4 is a formal party.

2. By this petition, petitioner challenges the award dated 8th June 2006 passed by the fourth respondent in the arbitration proceedings initiated by the petitioner.

3. In respect of the Stock market transactions the petitioner made a claim on the respondent nos.1 to 3 before the National Stock Exchange.(for short "the N.S.E") The same was referred to the arbitration in accordance with the bye-laws of the N.S.E. The Arbitral Tribunal held that the claim was barred by limitation and dismissed the claim by an award dated 8th June 2006. That award is impugned in this petition.

4. Bye-law no.3(11) of the N.S.E. provides all claims, differences or disputes shall be submitted to arbitration within six months from which the claim, difference or dispute arose or shall be deemed to have been arisen. According to the petitioner, she was not paid the amount due in respect of the transactions made by her through the respondent nos.1 to 3 between 26th June 2005 and 30th June 2005. The arbitration clause proceedings were initiated by the petitioner on 17th April 2006. i.e. after the expiry of the period of six months. In my view, the reference to the arbitration was therefore barred by limitation.

5. In Pankaj Goshar Vs. Fortune Equity Brokers I) Ltd. (Arbitration Petition no.368 of 2003 decided on 28th March 2005, Coram D.K. Deshmukh, J this court has held that the period of limitation for making a reference commences on the date on which the cause of action for filing the suit for the same claim would have arisen, if a suit were to be filed. If the claimant were to file a suit in respect of the transactions, in dispute the cause of action would have arisen on 30th June 2005. In my view, the period of six months for working a reference has to be calculated from that date. Since the arbitrator was invoked after expiry of six months arbitration was clearly barred. The Arbitral Tribunal, in my view, was right in holding that the reference was barred by limitation.

6. In the circumstances, the petition is dismissed summarily.

D.G. KARNIK, J